

of study and has not previously received a Federal Stafford, Federal Supplemental Loans for Students, Direct Subsidized, or Direct Unsubsidized Loan, a school may not disburse the proceeds of a Direct Subsidized or Direct Unsubsidized Loan until 30 days after the first day of the student's program of study unless—

(A) The school has a cohort default rate, calculated under subpart M of 34 CFR part 668, or weighted average cohort rate of less than 10 percent for each of the three most recent fiscal years for which data are available;

(B) The school is an eligible home institution originating a loan to cover the cost of attendance in a study abroad program and has a Direct Loan Program cohort rate, FFEL cohort default rate, or weighted average cohort rate of less than 5 percent for the single most recent fiscal year for which data are available; or

(C) The school is not in a State.

(ii) Paragraphs (b)(4)(i)(A) and (B) of this section do not apply to any loans originated by the school beginning 30 days after the date the school receives notification from the Secretary of a cohort default rate, calculated under subpart M of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in paragraph (A) or (B), as applicable.

(iii) Paragraph (b)(4)(i)(B) of this section does not apply to any loans originated by the school beginning 30 days after the date the school receives notification from the Secretary of a cohort default rate, calculated under Subpart M of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in that paragraph.

(c) *Processing of the proceeds of a Direct Loan.* Schools shall follow the procedures for disbursing funds in 34 CFR 668.164.

(d) *Late Disbursement.* A school may make a late disbursement according to the provisions found under 34 CFR 668.164(g).

(e) *Treatment of excess loan proceeds.* Before the disbursement of any Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan proceeds, if a school learns that the borrower will receive or has received financial aid for the period of enrollment for which the loan

was intended that exceeds the amount of assistance for which the student is eligible (except for Federal Work-Study Program funds up to \$300), the school shall reduce or eliminate the overaward by either—

(1) Using the student's Direct Unsubsidized, Direct PLUS, or State-sponsored or another non-Federal loan to cover the expected family contribution, if not already done; or

(2) Reducing one or more subsequent disbursements to eliminate the overaward.

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#### § 685.304 Counseling borrowers.

(a) *Initial counseling.* (1) Except as provided in paragraph (a)(5) of this section, a school must ensure that initial counseling is conducted with each Direct Subsidized Loan or Direct Unsubsidized Loan student borrower prior to making the first disbursement of the proceeds of a loan to a student borrower unless the student borrower has received a prior Direct Subsidized, Direct Unsubsidized, Federal Stafford, or Federal SLS Loan.

(2) Except as provided in paragraph (a)(5) of this section, a school must ensure that initial counseling is conducted with each graduate or professional student Direct PLUS Loan borrower prior to making the first disbursement of the loan unless the student borrower has received a prior Direct PLUS Loan or Federal PLUS Loan. The initial counseling must—

(i) Inform the student borrower of sample monthly repayment amounts based on a range of student levels or indebtedness or on the average indebtedness of graduate or professional student PLUS loan borrowers, or student borrowers with Direct PLUS Loans and Direct Subsidized Loans or Direct Unsubsidized Loans, depending on the types of loans the borrower has obtained, at the same school or in the

same program of study at the same school;

(ii) For a graduate or professional student who has received a prior Federal Stafford, or Direct Subsidized or Unsubsidized Loan provide the information specified in § 685.301(a)(3)(i)(A) through § 685.301(a)(3)(i)(C); and

(iii) For a graduate or professional student who has not received a prior Federal Stafford, or Direct Subsidized or Direct Unsubsidized Loan, provide the information specified in paragraph (a)(4)(i) through (a)(4)(iii) and paragraph (a)(4)(v) of this section.

(3) The initial counseling must be in person, by audiovisual presentation, or by interactive electronic means. In each case, the school must ensure that an individual with expertise in the title IV programs is reasonably available shortly after the counseling to answer the student borrower's questions. As an alternative, in the case of a student borrower enrolled in a correspondence program or a study-abroad program approved for credit at the home institution, the student borrower may be provided with written counseling materials before the loan proceeds are disbursed.

(4) Initial counseling for Direct Subsidized Loan and Direct Unsubsidized Loan borrowers must—

(i) Explain the use of a Master Promissory Note (MPN);

(ii) Emphasize to the borrower the seriousness and importance of the repayment obligation the student borrower is assuming;

(iii) Describe the likely consequences of default, including adverse credit reports, garnishment of wages, Federal offset, and litigation;

(iv) Inform the student borrower of sample monthly repayment amounts based on a range of student levels of indebtedness or on the average indebtedness of Direct Subsidized Loan and Direct Unsubsidized Loan borrowers, or student borrowers with Direct Subsidized, Direct Unsubsidized, and Direct PLUS Loans, depending on the types of loans the borrower has obtained at the same school or in the same program of study at the same school; and

(v) Emphasize that the student borrower is obligated to repay the full

amount of the loan even if the student borrower does not complete the program, is unable to obtain employment upon completion, or is otherwise dissatisfied with or does not receive the educational or other services that the student borrower purchased from the school.

(5) A school may adopt an alternative approach for initial counseling as part of the school's quality assurance plan described in § 685.300(b)(9). If a school adopts an alternative approach, it is not required to meet the requirements of paragraphs (a)(1)–(4) of this section unless the Secretary determines that the alternative approach is not adequate for the school. The alternative approach must—

(i) Ensure that each student borrower subject to initial counseling under paragraph (a)(1) or (a)(2) of this section is provided written counseling materials that contain the information described in paragraph (a)(4) of this section;

(ii) Be designed to target those student borrowers who are most likely to default on their repayment obligations and provide them more intensive counseling and support services; and

(iii) Include performance measures that demonstrate the effectiveness of the school's alternative approach. These performance measures must include objective outcomes, such as levels of borrowing, default rates, and withdrawal rates.

(6) If initial counseling is conducted through interactive electronic means, a school must take reasonable steps to ensure that each student borrower receives the counseling materials, and participates in and completes the initial counseling.

(7) The school must maintain documentation substantiating the school's compliance with this section for each student borrower.

(b) *Exit counseling.* (1) A school must ensure that exit counseling is conducted with each Direct Subsidized Loan or Direct Unsubsidized Loan borrower shortly before the student borrower ceases at least half-time study at the school.

(2) The exit counseling must be in person, by audiovisual presentation, or by interactive electronic means. In

each case, the school must ensure that an individual with expertise in the title IV programs is reasonably available shortly after the counseling to answer the student borrower's questions. As an alternative, in the case of a student borrower enrolled in a correspondence program or a study-abroad program approved for credit at the home institution, the student borrower may be provided with written counseling materials within 30 days after the student borrower completes the program.

(3) If a student borrower withdraws from school without the school's prior knowledge or fails to complete the exit counseling as required, exit counseling must be provided either through interactive electronic means or by mailing written counseling materials to the student borrower at the student borrower's last known address within 30 days after the school learns that the student borrower has withdrawn from school or failed to complete the exit counseling as required.

(4) The exit counseling must—

(i) Inform the student borrower of the average anticipated monthly repayment amount based on the student borrower's indebtedness or on the average indebtedness of student borrowers who have obtained Direct Subsidized Loans and Direct Unsubsidized Loans, or student borrowers who have obtained Direct Subsidized, Direct Unsubsidized, and Direct PLUS Loans, depending on the types of loans the student borrower has obtained, for attendance at the same school or in the same program of study at the same school;

(ii) Review for the student borrower available repayment options including the standard repayment, extended repayment, graduated repayment, and income contingent repayment plans, and loan consolidation;

(iii) Suggest to the student borrower debt-management strategies that would facilitate repayment;

(iv) Explain to the student borrower how to contact the party servicing the student borrower's Direct Loans;

(v) Meet the requirements described in paragraphs (a)(3)(i), (ii), (iii), and (v) of this section;

(vi) Review for the student borrower the conditions under which the student borrower may defer or forbear repay-

ment or obtain a full or partial discharge of a loan;

(vii) Review for the student borrower information on the availability of the Department's Student Loan Ombudsman's office;

(viii) Inform the student borrower of the availability of title IV loan information in the National Student Loan Data System (NSLDS); and

(ix) Require the student borrower to provide current information concerning name, address, social security number, references, and driver's license number and State of issuance, as well as the student borrower's expected permanent address, the address of the student borrower's next of kin, and the name and address of the student borrower's expected employer (if known).

(5) The school must ensure that the information required in paragraph (b)(4)(ix) of this section is provided to the Secretary within 60 days after the student borrower provides the information.

(6) If exit counseling is conducted through interactive electronic means, a school must take reasonable steps to ensure that each student borrower receives the counseling materials, and participates in and completes the exit counseling.

(7) The school must maintain documentation substantiating the school's compliance with this section for each student borrower.

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(Authority: 20 U.S.C. 1087a *et seq.*)

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#### **§ 685.305 Determining the date of a student's withdrawal.**

(a) Except as provided in paragraph (b) of this section, a school shall follow the procedures in § 668.22(b) or (c), as applicable, for determining the student's date of withdrawal.

(b) For a student who does not return for the next scheduled term following a summer break, which includes any summer term(s) in which classes are offered but students are not generally